

Docket No.: 62740A US  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Foster, et al.

Application No.: 10/552877

Confirmation No.: 4473

Filed: April 15, 2004

Art Unit: 3629

For: METHOD OF FILING HIGH ASPECT RATIO,  
SMALL DIMENSION GAPS AND  
FORMULATIONS USEFUL THEREIN

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Examiner: Unknown

**Petition Under 35 U.S.C. § 1.78(a)(6)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition the Commissioner for Patents under 35 U.S.C. § 1.78(a)(6) to accept their unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the U.S. Provisional Patent Application Number 60/463709, filed April 17, 2003. The entire delay between the date the claim was due under 35 U.S.C. § 1.78(a)(5)(ii) and the date the claim has been filed was unintentional.

The pending nonprovisional application is a §371 application from PCT International Patent Application Number PCT/US2004/011534 filed April 15, 2004, which claimed benefit from U.S. Provisional Patent Application Number 60/463709, filed April 17, 2003. While the § 371 transmittal letter the claim to priority of the date of the provisional and the related PCT paperwork clearly made the claim to priority to the provisional, the instant nonprovisional application inadvertently did not contain and was not amended to contain a reference to the prior

filed applications within the later of four months from the date on which the national stage commenced under 35 U.S.C. § 371(b) or (f) or sixteen months from the filing date of the prior-filed provisional application.

As required by 35 U.S.C. § 1.78(a)(6) the aforementioned petition for the priority claim, in addition to the above statement that the entire delay was unintentional, this petition is accompanied by:

- (i) The reference required by 35 U.S.C. 119(e), which reference is contained in a separate paper (“Amendment and Reply Under 35 U.S.C. § 1.111”) submitted concurrently herewith; and
- (ii) The surcharge set forth in 37 C.F.R. § 1.17(t).

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayments, to deposit account number 04-1512.

Dated: February 26, 2010

Respectfully submitted,

By: /Susan Moeller Zerull/

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